

FOR THE DISTRICT OF DELAWARE

CESAR AYLLON-FLORES,

Plaintiff,

v.

PETER D. STANLEY and NANCY R.
STANLEY,

Defendants.

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:
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:
:

C.A. No.:

JURY OF SIX DEMANDED

COMPLAINT

PARTIES

1. The plaintiff, Cesar Ayllon-Flores resides at 3806 Frances Avenue, Wilmington, Delaware 19808.

2. The defendants, Peter D. Stanley and Nancy R. Stanley, are individuals who reside at 1137 Harford Town Drive, Abingdon, Maryland 21009.

JURISDICTION

3. Paragraphs 1 through 2 are incorporated by reference.

4. Jurisdiction is conferred pursuant to 28 U.S.C. §1332(a)(1) and § 1332(c)(1) as the amount in controversy exceeds \$75,000.00 and the action is between citizens of different states. Venue is proper in this Court pursuant to 28 U.S.C. §1391(a), as this is the judicial district in which a substantial part of the events or omissions giving rise to this claim occurred.

FACTUAL ALLEGATIONS

5. Paragraphs through 4 are incorporated by reference.

6. On or about July 15, 2005, the plaintiff, Cesar Ayllon-Flores, was working as an independent contractor, assisting the defendant, Peter Stanley, at a job site in Hockessin, Delaware, attempting to connect a trailer to a dump truck.

7. At the aforementioned time and place, the defendant, Peter Stanely, operating a dump truck, owned by the defendant, Nancy Stanley, suddenly and unexpectedly accelerated the dump truck backwards, causing the truck's ball/hitch to pin the top of plaintiff, Cesar Ayllon-Flores', left thumb between the ball/hitch and the trailer, severing the top of plaintiff's left thumb, resulting in serious personal injuries to the plaintiff, Cesar Ayllon-Flores.

COUNT I
CLAIM AGAINST PETER STANLEY

8. Paragraphs 1 through 7 are incorporated by reference.

9. The direct and proximate cause of the aforesaid accident was the negligence of the defendant, Peter Stanley, as follows:

(a) He operated a vehicle in a careless and imprudent manner, in violation of 21 Del. C. §4176(a);

(b) He failed to give full time and attention to the operation of the vehicle, in violation of 21 Del. C. §4176(b);

(c) He failed to maintain a proper lookout while operating the vehicle, in violation of 21 Del. C. §4176(b);

(d) He drove his vehicle in willful and wanton disregard for the safety of persons and property on said roadway, in violation of 21 Del. C. §4175(a);

(e) He failed to maintain and keep a proper lookout for persons and other vehicles in the area, in violation of the common law duty of care he had to others on the roadway, including the plaintiff, Cesar Ayllon-Flores;

(f) He failed to operate his vehicle as a reasonable and prudent person under the circumstances in doing the aforesaid acts set out in sub-paragraphs (a) through (e), in violation of the common law duty of care he had to others on the roadway, including the plaintiff, Cesar Ayllon-Flores;

(g) He was otherwise negligent.

10. At all times relevant to this litigation, Peter Stanley, was the agent, servant and/or employee of the defendant, Nancy Stanley. [DENIAL OF THIS ALLEGATION BY THE DEFENDANT MUST BE MADE BY AFFIDAVIT, PURSUANT TO 10 DEL. C. §3916.]

COUNT II
CLAIM AGAINST NANCY STANLEY

11. Paragraphs 1 through 10 are incorporated by reference.

12. The defendant, Nancy Stanley, was the owner of the vehicle operated by the defendant, Peter Stanley, at the time of the accident.

13. At all times relevant to this litigation, Peter Stanley, was the agent, servant and/or employee of the defendant, Nancy Stanley. [DENIAL OF THIS ALLEGATION BY THE DEFENDANT MUST BE MADE BY AFFIDAVIT, PURSUANT TO 10 DEL. C. §3916.]

14. The defendant, Nancy Stanley, is vicariously liable for the acts of her agent, servant and/or employee.

15. A proximate cause of the aforesaid collision was the negligence of the defendant, Nancy Stanley, by entrusting her vehicle to Peter Stanley, whom she knew or should have known would act in a manner likely to cause injuries to third persons.

16. Defendant, Nancy Stanley, by entrusting her vehicle to a person whom she knew or should have known would act in a manner likely to cause injuries to third persons, acted in a manner which constituted willful and wanton disregard for the safety of others, including the plaintiff.

17. Defendant, Nancy Stanley was otherwise negligent.

COUNT III
CLAIM OF CESAR AYLLON-FLORES

18. Paragraphs 1 through 17 are incorporated by reference.

19. As a direct and proximate result of the defendants' negligence, plaintiff, Cesar Ayllon-Flores, suffered personal injuries, both of a temporary and permanent nature, including, but not limited to: a partial amputation of the left thumb which later became infected and required partial amputation, and a hook nail deformity.

20. As a further result of his injuries, plaintiff, Cesar Ayllon-Flores, has experienced, continues to experience, and is likely to experience in the future, physical pain and suffering and discomfort.

21. As a further result of his injuries, plaintiff, Cesar Ayllon-Flores, has experienced, continues to experience, and is likely to experience in the future, emotional pain, suffering, anxiety and nervousness.

22. As a further result of the defendants' negligence, plaintiff, Cesar Ayllon-Flores, has incurred and may in the future incur, medical bills for the treatment of his injuries sustained in the accident.

23. As a further consequence of his injuries, the plaintiff, Robert Crowley, has been required to undergo prolonged medical treatment, including multiple surgeries and a partial amputation of the left thumb.

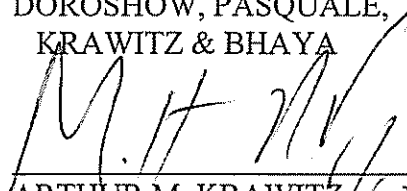
24. As a further consequence of defendants' negligence, the plaintiff, Cesar Ayllon-Flores, has suffered and may in the future suffer a loss of earnings and an impairment of earning capacity.

WHEREFORE, the plaintiff, Cesar Ayllon-Flores, prays that this Court enter judgment against the defendants, Peter Stanley and Nancy Stanley, jointly and severally, for all

compensatory and special damages and for the cost of this action, along with any other relief that this Court may deem proper.

DOROSHOW, PASQUALE,
KRAWITZ & BHAYA

By:


ARTHUR M. KRAWITZ / (2440)
MATTHEW R. FOGG / (4254)
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Wilmington, DE 19805
(302) 998-0100
Attorneys for Plaintiffs

DATED: 3/1/06

JS 44 (Rev. 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Cesar Ayllon-Flores

(b) County of Residence of First Listed Plaintiff New Castle, DE
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Arthur M. Krawitz, Matthew R. Fogg,
1202 Kirkwood Hwy., Wilmington, DE 19805

DEFENDANTS

Peter D. Stanley and
Nancy R. Stanley

County of Residence of First Listed Defendant Harford, MD
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input checked="" type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

| CONTRACT | TORTS | FORFEITURE/PENALTY | BANKRUPTCY | OTHER STATUTES |
|--|---|--|--|--|
| <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise | PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input checked="" type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury | PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other | <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark |
| REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property | CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights | PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition | LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act | <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) SOCIAL SECURITY <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 |
| | | | | <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes |

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgement

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. §1332(a)(1) and §1332(c)(1)

Brief description of cause:

Personal injury due to auto accident**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

3/1/06

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

AO FORM 85 RECEIPT (REV. 9/04)

United States District Court for the District of Delaware

Civil Action No. 06 140

ACKNOWLEDGMENT
OF RECEIPT FOR AO FORM 85

NOTICE OF AVAILABILITY OF A
UNITED STATES MAGISTRATE JUDGE
TO EXERCISE JURISDICTION

I HEREBY ACKNOWLEDGE RECEIPT OF 2 COPIES OF AO FORM 85.

MAR 01 2006

(Date forms issued)

Shane Handlin

(Signature of Party or their Representative)

Shane Handlin

(Printed name of Party or their Representative)

Note: Completed receipt will be filed in the Civil Action